

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1581V

UNPUBLISHED

JENNA ROBERTS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 31, 2022

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Jessica Ollins, Maglio Christopher & Toale, PA, Washington, DC, for Petitioner.

Ryan Daniel Pyles, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On November 12, 2020, Jenna Roberts filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration as a result of an influenza vaccine she received on October 23, 2019. Petition at ¶¶ 6, 14-15. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 12, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. ECF No. 29. On May 31, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$120,387.59 (representing \$120,000.00 in actual and projected pain and suffering and \$387.59 in past unreimbursed expenses). Proffer at 1. In the Proffer, Respondent

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). This means the Decision will be available to anyone with access to the internet. In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

represented that Petitioner agrees with the proffered award. *Id.* at 2. Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$120,387.59 (representing \$120,000.00 in actual and projected pain and suffering and \$387.59 in past unreimbursed expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

JENNA ROBERTS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-1581V
Chief Special Master Brian H. Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On May 11, 2022, respondent filed his Rule 4(c) Report, recommending that the Court find petitioner entitled to compensation specifically for a shoulder injury related to vaccine administration (SIRVA) and related sequelae, regarding which petitioner is entitled to a presumption of causation under the Vaccine Injury Table. ECF No. 28. The Court found petitioner entitled to compensation accordingly in a May 12, 2022 Ruling on Entitlement. ECF No. 29. Respondent now proffers that petitioner be awarded a lump sum of **\$120,387.59**, in the form of a check payable to petitioner, for all damages available pursuant to 42 U.S.C. § 300aa-15(a).¹ Of this total amount, \$120,000.00 represents an award for actual and projected pain and suffering at net present value, and \$387.59 represents an award for past unreimbursed expenses. Petitioner is a competent adult, and accordingly, guardianship documentation is not required.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

Petitioner has reviewed the foregoing and concurs. Petitioner agrees with the proffered award of **\$120,387.59.**²

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/ RYAN D. PYLES
RYAN D. PYLES
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington D.C. 20044-0146
Tel: (202) 616-9847
ryan.pyles@usdoj.gov

Dated: May 31, 2022

² This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).